

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

STATE OF GEORGIA,

DEFENDANT.

Civil Action No.
1:16-cv-03088-ELR

**UNOPPOSED MOTION FOR ENLARGEMENT OF TIME
AND ENTRY OF AMENDED SCHEDULING ORDER**

NOW COMES the United States of America, by and through below counsel of record, and moves this Court pursuant to Federal Rule of Civil Procedure 6(b) for an enlargement of time extending the expert discovery deadline to and including August 25, 2023 and for entry of a proposed amended scheduling order reflecting that extension. Counsel for the United States has consulted with counsel for Defendant State of Georgia ("State"), and the State does not oppose. The grounds for this motion are more particularly set forth in the accompanying memorandum of law.

Dated: May 2, 2023.

Respectfully submitted,

RYAN K. BUCHANAN
United States Attorney

/s/ Aileen Bell Hughes
AILEEN BELL HUGHES
Assistant United States Attorney
Georgia Bar No. 375505
Aileen.bell.hughes@usdoj.gov
600 U.S. Courthouse
75 Ted Turner Drive SW
Atlanta, GA 30303
(404) 581-6000 Fax (404) 581-6181

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

STATE OF GEORGIA,

DEFENDANT.

Civil Action No.
1:16-cv-03088-ELR

**MEMORANDUM OF LAW IN SUPPORT OF
UNOPPOSED MOTION FOR ENLARGEMENT OF TIME
AND ENTRY OF AMENDED SCHEDULING ORDER**

Pursuant to Federal Rule of Civil Procedure 6(b), Plaintiff the United States of America (“United States”) requests an extension of the expert discovery deadline set forth in this Court’s February 1, 2023 Order (*see* ECF 344) and entry of the attached proposed amended scheduling order.

Rule 6(b) permits the Court broad discretion in granting enlargements of time made prior to the expiration of the time originally permitted to make the subject filing. *See Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1366 (11th Cir. 1997) (“We recognize that district courts enjoy broad discretion in deciding how best to manage the cases before them.”); *Cable/Home Commc'n Corp. v. Network Prods., Inc.*, 902 F.2d 829, 859 (11th Cir. 1990) (discussing discretion afforded to

district courts when ruling on requests for enlargements of time); *see also* Wright & Miller, Federal Practice and Procedure § 1165 (1987).

The parties have made significant progress in this complex statewide litigation, which involves multiple State agencies and vast amounts of electronically stored information. Prior to the March 10, 2023 close of fact discovery, the United States served and responded to numerous sets of discovery requests. (*See* ECF 74, 75, 90, 101, 102, 177, 228-229, 300, 338-339, 342.) The United States produced more than 3,000 documents totaling more than 16,000 pages from more than 30 Department of Justice personnel involved in this litigation. The United States also received from the State nearly 700,000 documents totaling more than five million pages from 52 custodians affiliated with the State Board of Education (“SBOE”), the Georgia Department of Education (“GaDOE”), the Georgia Department of Behavioral Health and Developmental Disabilities (“DBHDD”), and the Georgia Department of Community Health (“DCH”), among others.

In addition to serving discovery on the State, the United States also served 24 Rule 45 document subpoenas on regional GNETS programs (*see* ECF 108-112, 252, 256-259), 24 Rule 45 document subpoenas on regional Community Service Boards (“CSBs”) (*see* ECF 231-251, 253-55), and more than 100 third-party

subpoenas for inspection of premises (*see, e.g.*, ECF 122-125, 136-147, 149, 169-173, 184-191, 195-205, 274-279, 281, 317-328, 347-349). The United States and its experts, with the State in attendance, conducted site visits of more than 70 facilities and gathered more than 17,000 documents in response to this third-party discovery. Those documents were produced to the State in addition to the documents outlined in the United States' production above. Finally, the parties prepared for, facilitated, and attended 46 depositions noticed and taken by the United States of the following witnesses: State personnel currently or previously affiliated with GaDOE, SBOE, DBHDD, DCH, and Georgia State University Center of Excellence; GNETS directors; and CSB personnel.

Document production in this litigation continued through the final days of the fact discovery period, with tens of thousands of documents exchanged in the last week of discovery alone. The parties have since worked to review those documents and identify any missing information. To that end, the United States and the State have been in communication to conduct final cleanup and resolve any outstanding discovery issues. Completing this process has taken longer than anticipated and during this time, the experts providing opinions in this litigation have been awaiting access to several key pieces of information. The parties have recently reached agreement regarding the outstanding data and information,

including a timeline for when it will be produced. However, to ensure that the United States' experts have time to receive the outstanding data and information and review and incorporate it into their opinions, the United States respectfully requests a six-week enlargement of time, through and including August 25, 2023, to complete expert discovery in this case. The United States notes that this enlargement of time will also permit its experts to balance their commitment to this litigation with their need to navigate recent personal challenges, including one expert's treatment for pneumonia and another expert's recent jury service. For the Court's convenience, a proposed Order granting the enlargement of time and setting forth an amended schedule is attached.

Respectfully submitted,

RYAN K. BUCHANAN
United States Attorney

/s/ Aileen Bell Hughes
AILEEN BELL HUGHES
Assistant United States Attorney
Georgia Bar No. 375505
Aileen.bell.hughes@usdoj.gov
600 U.S. Courthouse
75 Ted Turner Drive SW
Atlanta, GA 30303
(404) 581-6000 Fax (404) 581-6181

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

STATE OF GEORGIA,

DEFENDANT.

Civil Action No.

1:16-cv-03088-ELR

Certificate of Compliance

I hereby certify, pursuant to Local Rules 5.1 and 7.1D, that the foregoing motion and brief have been prepared using Book Antiqua, 13-point font.

/s/ Aileen Bell Hughes

AILEEN BELL HUGHES

Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

STATE OF GEORGIA,

DEFENDANT.

Civil Action No.

1:16-cv-03088-ELR

Certificate of Service

I served this document today by filing it using the Court's CM/ECF system, which automatically notifies the parties and counsel of record.

May 2, 2023.

/s/ Aileen Bell Hughes

AILEEN BELL HUGHES

Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

STATE OF GEORGIA,

DEFENDANT.

Civil Action No.

1:16-cv-03088-ELR

AMENDED SCHEDULING ORDER

Having read and considered the United States of America's Unopposed Motion for Enlargement of Time and Entry of Amended Scheduling Order [Doc. 375] and for good cause shown, it is hereby **ORDERED** that the United States of America shall be **GRANTED** an extension of time to complete expert discovery through and including August 25, 2023. The Court further **ORDERS** the parties to comply with the following scheduling deadlines:

Expert Discovery: The parties disclosed the names and curriculum vitae of their experts on March 15, 2023 and shall exchange expert reports by June 16, 2023. The parties shall disclose rebuttal experts and exchange rebuttal expert reports by July 14, 2023. The parties may depose each side's respective experts in

depositions that do not exceed seven hours of testimony for each expert. Expert discovery shall be completed no later than August 25, 2023.

Post-Discovery Conference: The parties shall hold an in-person post-discovery settlement conference in accordance with Local Rule 16.3 no later than September 8, 2023.

Summary Judgment: The parties shall file any motions for summary judgment no later than September 22, 2023.

So ordered this _____ day of May, 2023.

ELEANOR L. ROSS
UNITED STATES DISTRICT JUDGE

Presented By:

/s/ Aileen Bell Hughes

AILEEN BELL HUGHES

Assistant United States Attorney

Georgia Bar No. 375505